

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ELGRET LORENZO BURDEX,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-23-314-D
)	
OKLAHOMA COUNTY)	
COMMISSIONERS, <i>et al.</i> ,)	
)	
Respondents.)	

ORDER

This matter is before the Court for review of the Report and Recommendation issued by United States Magistrate Judge Suzanne Mitchell pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Judge Mitchell recommends the dismissal of the Amended Petition in its entirety because Petitioner seeks relief that is not available in a habeas action under 28 U.S.C. § 2241 and because he has not exhausted available state-court remedies for any habeas claim.

The case file shows no timely objection or request for an extension of time, even though Petitioner was expressly informed of his right to object, the procedure for doing so, and the firm waiver rule. The docket instead shows that the Clerk’s mailing of the Report to Petitioner was returned as undeliverable [Doc. No. 11]. However, Petitioner is responsible for giving notice of any change of address, and “[p]apers sent by the court will be deemed delivered if sent to the last known address given to the court.” *See* LCvR5.4(a); *see also Theede v. U.S. Dep’t of Labor*, 172 F.3d 1262, 1267-68 (10th Cir.

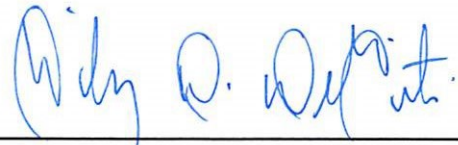
1999) (pro se plaintiff who failed to provide a change of address waived right to review by failing to timely object to R&R).

Therefore, the Court finds that Petitioner has waived further review of the issues addressed in the Report. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *see also United States v. 2121 E. 30th St.*, 73 F.3d 1057, 1060 (10th Cir. 1996). Further, for the reasons ably explained by Judge Mitchell, the Court finds that this action should be dismissed without prejudice.¹

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 10] is **ADOPTED** in its entirety. The Amended Petition is **DISMISSED** without prejudice to a future action. A separate judgment of dismissal shall be entered.

IT IS FURTHER ORDERED that all pending motions [Doc. Nos. 5 and 8] are **DENIED** as moot.

IT IS SO ORDERED this 26th day of July, 2023.



TIMOTHY D. DeGIUSTI
Chief United States District Judge

¹ Although Judge Mitchell does not expressly recommend a without-prejudice dismissal, the reasons for dismissing the Amended Petition require a future opportunity for Petitioner to cure the defects in his pleading.